



2. The R&R is **APPROVED** and **ADOPTED** for the reasons stated therein;
3. The Petition for Writ of Habeas Corpus by a Person in State Custody is **DENIED** without prejudice to Petitioner's ability to re-file the Petition following exhaustion of all of Petitioner's claims on state collateral review;
4. A Certificate of Appealability **SHALL NOT ISSUE**.<sup>2</sup>

The Clerk of Court is directed to **CLOSE** this case.

It is so **ORDERED**.

**BY THE COURT:**



CYNTHIA M. RUFÉ, J.

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Petitioner's objections were accompanied by a motion to stay and a motion to consider the untimely motion to stay, which the Court will construe as objections to the R&R's determination that the case should not be stayed. The Court has independently reviewed the time that Petitioner will have to file a federal habeas petition upon the conclusion of state collateral review, and agrees that Petitioner will have ample time to file such a petition. Any prejudice that Petitioner may have suffered from alleged ineffective assistance of counsel on state collateral review is ameliorated by the Court of Common Pleas' appointment of new counsel and reinstatement of Petitioner's appeal rights. In addition, although Petitioner contends that he is actually innocent, Petitioner's unsupported allegations of third party culpability are insufficient to provide good cause to stay these proceedings. For these reasons, the Court will deny the § 2254 petition without prejudice to its reinstatement after exhaustion of all of Petitioner's claims on state collateral review.

<sup>2</sup> For the reasons discussed above, Petitioner has made no "substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003), and is therefore not entitled to a certificate of appealability.